

DWR Response to Public Comments Draft Multi-Benefit PSP

Comment No.	Section	Page	Comment	Response
1		1	"must include" or disqualify, what if the project cannot increase export water or provide long-term habitat?	The project will not be selected to receive state funding support.
2		1	The recognition of the priority for levees along the fresh water corridor from Clifton Court forebay north along the Old and Middle Rivers to the San Joaquin river is particularly meritorious.	Comment noted.
3	2. Background - Legislation	2	The fund for the Delta Levees is from 5096.821, how does it relate to 5096.820(b)(2)?	Public Resources Code Section 5096.821 provides funding for projects through the Program. Section 5096.820 provides guidance for the selection of all projects funded under Proposition 1E.
4	3. Eligibility	3	"Eligibility" is misspelled in Section Requirements 3 title.	The PSP will be updated.
5	3. Eligibility	3	Is the Framework a DWR policy or is it a policy adopted by the DLP?	DWR policy is Delta Levees Program Policy, and is reflected in the DSC's Delta Plan.
6	4. Eligible Applicants	4	We suggest adding the following to the end of the last sentence: "... with both the Delta Levee Special Flood Control Projects Program and the Subventions Program."	The PSP will be updated.
7	5. Eligible Projects	4	It is stated in Section 5 that projects should simultaneously improve water supply reliability and provide long term ecosystem enhancement; but how can the applicant combine both when the PSP areas are independent?	The areas delineated in Appendix 1 show the preferred, or "Targeted", areas, but this does not limit them to those areas. The Scoring provides points for projects that, for the purposes of this PSP, aspects of all eligibility criteria may be met. Please refer to Options 2 and 3 in Appendix 7.
8	5. Eligible Projects	4	Anthropogenic Accommodation Space (AAS) should not be used as an eligibility requirement. The PSP should consider using a more holistic, regional approach, rather than looking at individual islands in a vacuum when determining eligibility. If the goal is to protect a conveyance corridor, excluding certain levee segments along the corridor does not accomplish this objective. We recommend removal of AAS as an eligibility criteria.	Comment noted.
9	5. Eligible Projects	4	The 20,000 acre foot Anthropogenic Accommodation Space (AAS) limitation may not provide adequate protection from salt intrusion. The use of a static number could eliminate Islands that may have a measureable effect on salt intrusion along the Old and Middle River corridors. The proximity of Islands such as Quimby and Medford to Franks Tract could have a substantial effect on the hydrodynamic transport of salts into the Old and Middle River corridor if they were to flood, yet neither island meets the AAS limitation stated in the PSP. We suggest a more flexible approach or drop the AAS limitation to 10,000 acre-feet in order to protect from salt intrusion.	The 20,000 acre-foot Anthropogenic Accommodation Space limitation will be lowered to 10,000 acre-feet.
10	5. Eligible Projects	4	What is the basis for the 20,000 acre-feet and limitation?	It is the Department's judgment that the AAS is a means of judging the threat to water quality. Also see response to Comment 9.
11	5. Eligible Projects	4	Will a proposal be considered if it is not entirely consistent with the district's 5-year plan?	Yes. However adequate justification must be provided.
12	5. Eligible Projects	4	Consistency with the 5-yr plan may not be compatible with this PSP. The 5yr plan may not have envisioned this PSP criteria.	See response to Comment 11.

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13	7. Application and Selection Process	5	DWR should consider reimbursing applicants for preparing a Full Application.	Comment noted.
14	7. Application and Selection Process	5	The two phase application process is particularly meritorious. This will avoid unnecessary expense by reclamation districts to develop full proposals for projects that are not a sufficiently high priority for DWR funding under this solicitation.	Comment noted.
15	7A. Concept Proposals	5	Under "Evaluation of Concept Proposals". Assuming that meeting the intent of the PSP includes biological considerations, we suggest that the last sentence read "... judged by DWR and CDFW to meet the intent of this PSP ...". This will help at an early stage to ensure that CDFW finds that each expenditure of funds is consistent with net habitat improvement.	The PSP will be updated.
16	7B. Full Applications	6	The 11th bullet states, "A detailed description by a qualified biologist or Restoration Ecologist of how the Project will meet the requirements of Water Code Section 12314, which requires no net long-term loss of habitat and net habitat improvement." We recommend striking this bullet; determination of compliance with Water Code Section 12314 is not the responsibility of a district. At a minimum, the phrase, "by a qualified biologist or Restoration Ecologist" should be removed. Section 12314 states "the Department of Fish and Game shall also make a written determination as part of its review and approval of a plan or project pursuant to this Section and Section 12987 that the proposed expenditures are consistent with a net long-term habitat improvement program and have a net benefit for aquatic species in the delta." It will be very costly to the applicant to engage a biologist or restoration ecologist to perform the work required to sufficiently prepare a "detailed description" at the application stage.	Comment noted.
17	7B. Full Applications	6	For the 8th bullet, we recommend that "proposed mitigation" be replaced with "proposed impacts". CDFW will determine the mitigation requirements of work funded by the program.	The PSP will be updated.
18	7B. Full Applications	6	For the 11th bullet, we recommend the following addition to clarify the existing statement: "A detailed description by a qualified biologist or Restoration Ecologist of how the Project proposes to meet the requirements of Water Code Section 12314 ...".	The PSP will be updated.
19	7B. Full Applications	7	"Submission of Full Applications". Fourth paragraph, first sentence. We recommend adding "and CDFW" after "DWR" so that it reads as follows: "... ranked by DWR and CDFW using the ...".	The PSP will be updated.
20	7C. Full Application Scoring Criteria	7	Considering that areas have been identified in Appendix 1 for the Freshwater Corridor (FC) and for Fish Friendly Levee Habitat (FFLH), and that FFLH projects will not be encouraged along Old and Middle Rivers, projects should be segregated based on the areas identified in Appendix 1. The four categories of criteria should not apply to all projects, since theoretically FC projects will not be able to compete with FFLH projects. The projects should be segregated first and then ranked, resulting in 2 groups of projects.	The PSP solicits projects that integrate levee improvement, habitat enhancement features, and export water supply reliability. While it may not be possible for every potential project to achieve the full 100 points available under each of the four scoring categories, there should be sufficient opportunity for projects to score enough points to be considered for funding.

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21	7C. Full Application Scoring Criteria	8	The points available under "Cost Considerations" for having a cost sharing partner are high, approximately 10% of the overall points available. This places a high value on having a cost sharing partner rather than a quality habitat project.	It is the intent of this PSP to strongly encourage multiple funding partners.
22	7C. Full Application Scoring Criteria	8	The two year construction time frame is inadequate, and may not be possible. Fish Friendly Habitat projects can take up to 2 years to secure environmental permits before construction can start. Any work that occurs below the ordinary water line associated with the Freshwater Corridor projects could encounter the same permit delays. Setback levees and fill placement on unconsolidated soils may require staged construction due to geotechnical challenges and could therefore require well more than two years to fully construct. We suggest that there be some consideration and development of methods to extend the construction time frames to allow for completion of the projects.	Comment noted. Funding that will be used for this PSP comes from Proposition 1E, and must be expended before July 2018. This is a legislative limit, and beyond DWR's authority.
23	7C. Full Application Scoring Criteria	9	Under "Notes", in the second box, we suggest rewording the sentence as follows: "... level of detail and accuracy ...". This change will require that the footnote at the bottom of the page be changed.	The PSP will be updated.
24	7C. Full Application Scoring Criteria	8 - 9	It appears that the maximum total points add up to 105, rather than 100. Top of the table should be changed to reflect maximum points possible are 105.	Comment noted. Original score is correct.
25	7C. Full Application Scoring Criteria	11	The scoring appears to be weighted towards the Fish Friendly Habitat projects. Perhaps scoring the Fish Friendly Habitat and Freshwater Corridor Waterways separately, or adjusting the scoring parameters, would level the playing field.	See response to Comment 20.
26	7C. Full Application Scoring Criteria	11	In the first box under "Notes," 1st paragraph, we suggest that the notes provide more detail and discuss the value of the small rock rip rap infill. One way of doing this would be to refer the reader to the third bullet on page 18.	Comment noted.
27	7C. Full Application Scoring Criteria	11	In Box 2, "Landside Features", we suggest including Riparian Forest as well as Scrub shrub and native grass levee plantings. Depending on what proposals come in there may be opportunities to have Riparian Forest included in the proposals.	The PSP will be updated.
28	7C. Full Application Scoring Criteria	11	In the first box under "Notes," 2nd paragraph, we suggest that the document include other habitat features that can be encouraged for the levees along Old River and Middle River, such as non-SRA and non-FFLH but in the form of SS and RF. SS and RF on the levee can provide benefits for terrestrial species in the area. We also suggest that the application be scored on how well it describes how the habitat will be preserved long term. This applies to the second box under "Notes" as well.	The PSP will be updated.
29	7D. Cost Share	12	Cost sharing is particularly meritorious. Considering the statewide benefits of these projects the minimum State cost share of 75% is appropriate. We also appreciate the opportunity for greater State cost sharing if justified.	Comment noted.
30	7D. Cost Share	12	The State minimum cost share will not be 75%, will be 50%.	75% will be the base cost share for projects funded under this PSP.
31	7D. Cost Share	12	Can the proposed cost share enhancement components be included in the concept proposal such that the district will know what their financial commitment will be, prior to submitting the formal application?	Potential cost share enhancements are shown in the PSP; however, final cost shares are not determined until the selection and approval process is complete.

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32	7D. Cost Share	12	Is it possible for the DWR to obtain potential cost share partners and specific additional funding amounts that the districts could apply for? For example, if Caltrans were to commit some funding districts that protect Caltrans could apply for a portion of the commitment.	This is an opportunity for the LMAs to work with potential partners that would benefit from the proposed work. DWR is unable to act on behalf of the LMAs with respect to this issue at this time.
33	7D. Cost Share	12	Can a more precise description be provided as to the cost share enhancement components and how they be quantified and presented for consideration? As examples: a) If the District were to provide a specific amount of SRA,RF,SS ,FWM type of habitats can a value be applied to the acres to determine a specific "in kind service" to be applied to the cost share? b) If water supply reliability is increased by reinforcing the levees beyond the PL84-99 levee standard the value of the improvements beyond could be applied to the cost share. c) If a project protects 10 miles of a State highway and 5 miles of a county road it will receive 10 x a (State highway factor) + 5 x a (county road factor) = points of additional cost share.	a) The question is unclear. b) This will be evaluated on a case by case basis. The Program does not now favor building beyond the levee design supported by the PSP. Any work beyond the PSP levee standard may be the responsibility of the LMA alone. C) Not on the current PSP; however the Program will consider the concept for future PSPs.
34	8. Application Timeline	13	There is concern regarding the short turnaround times on the application processes. It is difficult to prepare all of the information required then schedule, notice and get a quorum at District meetings for approvals, resolutions and funding decisions during the spring and summer months due to the agricultural operations occurring on the Districts that are critical during that period of the year.	Comment noted. The timeline will be adjusted.
35	Appendix 1	14	Why doesn't the eastern Freshwater Corridor extend further north? We recommend also including Little Potato Slough and Little Connection Slough to the eastern corridor to be consistent with previously published documents. We also recommend including the sloughs that connect the eastern and western corridors.	DWR believes the corridors highlighted are the most significant.
36	Appendix 1	14	Fish Friendly Levee Habitat (FFLH) may not be compatible with certain segments of the main stems of the Sacramento and San Joaquin Rivers. For example, the Deep Water Ship Channel is very close to the Jersey Island levee, and the waves that are generated by large container ships will likely destroy the habitat before it could become established. We suggest allowing a structural component to be considered in the areas identified as FFLH. We also suggest not strictly enforcing the FFLH boundaries identified in Appendix 1, rather allowing some flexibility to included tributaries to the main stem channels.	See response to Comment 35.
37	Appendix 1	14	Does the desired area of FFLH on the Sacramento River extend beyond the top of the map or to the west into the Suisun Marsh?	The PSP will be updated.
38	Appendix 1	14	With the current drought situation it is clear that the ability to move water through the Delta Cross channel is very important for water quality. Consideration should be given to adding Connection slough, Potato slough and White slough to Appendix 1 map and show it as orange (combo of green and red).	Comment noted.

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39	Appendix 7	20	We recommend the portrayal of RF/SS on the landside levee in this figure so District's know it is an option depending on their individual circumstances. There could be a clarifying statement that "it's not required and will be considered on an individual project basis".	The PSP will be updated.
40	Appendix 7	20 - 22	We highly recommend incorporating the new modified vegetation allowances that the DWR CVFPP Conservation Strategy (CS) group has developed. This would not only make the PSP consistent with where the CS is headed, but we believe the modified vegetation design the CS group has developed is a big step in the right direction.	The Conservation Strategy vegetation allowances are focused on existing vegetation and that which may naturally recruit. The focus of the vegetation guidance in this PSP is based on the actual planting of vegetation as components of projects that would qualify as net habitat improvement features.
41	Funding		<p>An unresolved challenge for the agricultural districts which I represent is providing the local share and cash flow for any sizeable project. Even if we had 100% of the costs covered by DWR, the difficulty in obtaining financing has been influenced by the risk predictions of levee failure. We have in the past not received support from third parties except from EBMUD where their facilities are directly impacted. Due to the significant contributions already made, the prospect of additional major assistance from EBMUD is not likely.</p> <p>Additionally, the cash flow burden increases dramatically as habitat features are incorporated even if 100% cost shared. As levees are expanded landward, the foundational materials are less consolidated, right of way becomes a greater issue, relocation of irrigation and drainage facilities, utilities and in some cases roads is greater and obtaining necessary permits is a huge issue.</p> <p>There has not been a favorable response from water export interests to prior inquiries.</p>	DWR appreciates that it is a challenge to fund levee projects and cost sharing is a principle way the State assures good value for public investment. Also see response to Comment 32.
42	Concept Proposals		The concept proposal approach is a good feature but should incorporate a mechanism for a determination of cost share and prospect for approval of the application. Submitting an application will be expensive and time consuming and cannot be done without a dependable plan for funding. The approval of a concept proposal with a determination of cost share and indication of approval of an appropriate application will be helpful in trying to get third party participation which at the present time is unlikely.	See response to Comment 31.

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43	Exclusion of Smaller Islands		<p>The exclusion of smaller islands from the current PSP should be reconsidered. Increasing the tidal prism, shortening the route for salinity intrusion to reach the export pumps and even making such passage less restricted should be more carefully evaluated.</p> <p>The Delta levees are part of a system. The inter-relationship is clear and should be recognized. Changes which are thought to be small could have significant consequences.</p> <p>The remnant levees on a flooded island can be expected to deteriorate and coupled with the impact of the increased tidal prism and inflow and outflow of the tides could increase the number of protected fish species reaching the export pumps, thereby resulting in curtailment of exports.</p> <p>Additionally, the other impacts remain. Seepage and wind wave impacts to surrounding levees, increased loss of riparian habitat on the remnant levees and channel islands, loss of fresh water due to increased evaporation, erosion of the sides of ship channels and loss of irreplaceable meandering and protected waterways should be included in your consideration.</p>	DWR appreciates the thoughts expressed in this comment; however, the funding remaining for Delta levee projects is limited and must be targeted. The smaller islands may be included in a future PSP where funding is available and projects are justified.
44	HMP		The HMP configuration should not be represented as an engineering standard. It was intended as a yardstick for measuring good faith progress to assure FEMA that the State of California was making a good faith effort to address the levee challenges. Even as a step towards PL 84-99 or Bulletin 182-92 rebuilding the levee crown to HMP and then going back to rebuild to PL 84-99 is a waste of limited resources. When the levee crown is altered, it should be rebuilt to the engineering standard. The crown width should be at least 22 feet instead of 16 feet to allow for two-way truck passage during floodfight, to accommodate raising to address sea level rise and in the lowlands, to reduce the threat from beaver dens.	The considerations noted in your comment are well understood by Program staff. As State goals are modified and funding becomes available, these considerations may be factored into a future PSP.
45	General		Is the cost of preparing a full application reimbursable to the District under the DWR Subventions program?	No, the cost of preparing a Full Application will not be reimbursable under the Subventions Program.
46	General		Will the details and costs of all the successful concept proposals be identified to all parties prior to preparing formal proposals?	The Program will post information regarding the submitted concept proposals, and those that have been requested to submit full applications.